

REMARKS

Claims 1-20 are currently pending in the application and subject to a Restriction Requirement. (*See*, Office Communication of October 18, 2006, at page 2, hereinafter, "Office Communication"). Applicants traverse the Restriction Requirement as set forth herein. Reconsideration is respectfully requested.

Restriction Requirement/Election Of Species

Claims 1-20 are subject to a Restriction Requirement under 35 U.S.C. §§ 121 and 372 for reciting inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. (*See*, Office Communication, at page 2). Applicants traverse as hereinafter set forth.

The Examiner states that the special technical feature of claim 1 is a DNA identical or substantially identical to SEQ ID NO:2 (an *N*-acetylglucosamino transferase) and having a biological activity substantially equivalent to the function of the polypeptide of SEQ ID NO:2. (*Id.*). The Examiner also states that the disclosure of Sanjanwala et al., WO 02/46426, "reads on the claim." (*Id.*).

The Examiner has required election in the present application between:

Group I, claims 1-5, 18 and 19, drawn to a nucleic acid, vector and transformant;

Group II, claims 6 and 7, drawn to a polypeptide and protein; and

Group III, claims 8-15, drawn to an antibody. (*Id.*).

For the purpose of continuing prosecution of the present application, Applicants elect, with traverse, Group I, claims 1-5, 18 and 19, drawn to a nucleic acid, vector and transformant.

Applicants traverse the Restriction Requirement on at least two grounds. First, although the Examiner alleges that a search of all of claims 1-20 would be an undue burden considering the subject matter encompassed by the present claims, such is not the case since by searching the sequence of SEQ ID NO:2, the Examiner would undoubtedly also reveal the polypeptide and/or protein comprising SEQ ID NO:2 as well as any nucleotide which encodes SEQ ID NO:2. The present facilities available for nucleotide and protein database searches allow for rapid and efficient search of both nucleic acid and polypeptide sequences with relative ease provided a single given species or sequence, such as SEQ ID NO:2. Furthermore, it would not be too burdensome for the Examiner to in addition search for antibodies directed against this sequence since such a search would also reveal references potentially encompassing this subject matter, if there were any. Thus, for at least this first reason, at least the claims of Groups I and II should be combined in the present examination on the merits, if not all of Groups I-III.

Second, although the Examiner states that the disclosure of Sanjanwala et al. destroys the special technical feature of the present application, the Examiner also admits that Sanjanwala et al. only disclose a sequence which at most 86.5% homologous to SEQ ID NO:2. The only additional information disclosed by the alignment is the "title of invention" which states "Drug Metabolizing Enzyme." Although SEQ ID NO:8 is further discussed at pages 47-48 of Sanjanwala et al., it appears Sanjanwala et al. does not actually test or confirm that their SEQ ID NO:8 has the same activity of the presently claimed SEQ ID NO:2 polypeptide, as recited in

claim 1. Thus, at least for this additional reason, the claims of Groups I-II should be considered in their totality and on their merits.

Reconsideration and withdrawal of the Restriction Requirement of claims 1-20 are respectfully requested.

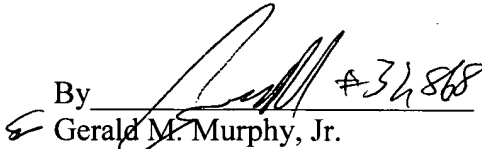
CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Thomas Seipmann, Ph.D., Registration No 57,374 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: NOV 17 2006

Respectfully submitted,

By  #32868
Gerald M. Murphy, Jr.
Registration No.: 28,977
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicants